

PATENT

Docket No. 1232-5012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): TANAKA

Group Art Unit: 2612

Serial No.: 09/256,411

Examiner: J. Hannett

Filed: February 24, 1999

For: IMAGING SENDING METHOD, IMAGE SENSING APPARATUS, CONTROL METHOD THEREFOR, AND STORAGE MEDIUM

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the attached Petition to Expunge Erroneously Filed Document under 37 CFR § 1.59(b) – (3 pages to include the Certificate of Facsimile) is being transmitted on the date shown below to the Examiner Krista Zele of Group No. 2612 at the following facsimile number: (703) 746-5919.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: July 10, 2003

By: 

Brian W. Brown
Registration No. 47,265
(202) 857-7887 Telephone
(202) 857-7929 Facsimile

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

43942 v1

Received from <2028573730> at 7/10/03 12:13:32 PM [Eastern Daylight Time]

07/21/2003 WLB/SDH 00000002 134503 09256411
01 FC:1460 130.00 DA

PATENTDocket: 1232-5012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : TANAKA
Serial No. : 09/256,411 Art Unit : 2612
Filed : February 24, 1999 Examiner : J. Hannett
For : IMAGING SENSING METHOD, IMAGE SENSING APPARATUS,
CONTROL METHOD THEREFOR, AND STORAGE MEDIUM

PETITION TO EXPUNGE
ERRONEOUSLY FILED DOCUMENT UNDER 37 CFR § 1.59(b)

Commissioner for Patent
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests that the certified copy of Japanese Application No. 2002-104484, filed April 5, 2002, be expunged from the application file and returned to Applicant on the basis that the certified copy was erroneously and unintentionally filed in the above-identified application. A check in the amount of \$130.00 to cover the requisite petition fee accompanies the present petition.

DISCUSSION

On February 24, 1999, the present application was filed with the United States Patent and Trademark Office (USPTO). The original application papers correctly identified and claimed foreign priority under 35 U.S.C. § 119(a) to earlier filed Japanese Application Nos. 10-061970, filed February 27, 1998 and 10-071545, filed March 20, 1998. Certified copies of these Japanese applications were appropriately filed with the USPTO on May 10, 1999.

On May 30, 2003, a paper entitled "CLAIM TO CONVENTION PRIORITY" was improperly filed in the present application. This Claim to Convention Priority paper erroneously included a certified copy of Japanese application 2002-104484 (JP'484 application), filed April 5, 2002, and erroneously identified the JP'484 application as a foreign application on which

U.S. Serial No. 09/256,411
Petition to Expunge

Docket No. 1232-4512

priority under 35 U.S.C. § 119(a) had been claimed. The JP'484 application, however, is the basis of a claim for foreign priority in another unrelated pending US application for patent.

Pursuant to 37 CFR § 1.59(b), as discussed in Section 724.05 of the Manual of Patent Examining Procedure, at Item III, applicant requests that the certified copy of the JP'484 application (Japanese Application No. 2002-104484) erroneously submitted on May 30, 2003 be expunged from the application file and returned to Applicant so that it may be refiled in the appropriate application. Applicant believes that the USPTO can expunge and return the subject certified copy prior to issuance of any patent on the present application since the present application has not yet been allowed and/or issuance thereof as a patent is not currently eminent. In addition, Applicant hereby states that the certified copy of the JP-484 application was unintentionally submitted and failure to obtain its return would cause Applicant irreparable harm. The certified copy of the subject application has not been made public and will be refiled in the appropriate application upon its return to Applicant.

CONCLUSION

Accordingly, Applicant request that erroneously identified and submitted certified copy of Japanese Application No. 2002-104484, filed April 5, 2002, be expunged from the application file and returned to Applicant.

AUTHORIZATION

The Commissioner is hereby authorized to charge any insufficient fees in regard to this paper, or refund any overpayment, to Deposit Account No. 13-4503, Order No. 1232-4512.

Dated: July 10, 2003

Respectfully submitted,
MORGAN & FINNEGAN LLP

By: 

Brian W. Brown

Reg. No. 47,265

(202) 857-7887 (Telephone)

(202) 857-7929 (Facsimile)

Correspondence Address:
MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154
Tel: (202) 857-7887
Fax: (202) 857-7929